#

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3784 OF 2006

Shariq Ahmed Khan Shahid Ahmed Khan .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.Amin Solkar & Sarfaraz Khalife for applicant
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 7th November 2006

P.C.

. Applicant has been arrested on 4th August 2006 in connection with C.R.No.298 of 2001 registered with Colaba Police Station alleging offence under sections 124(a), 506(2), 380, 420, 465, 468, 469, 471, 474, 476 and 34 I.P.C. read with sections 43, 66, 67 of I.T. Act.

2. It appears that the applicant is also

arrested in connection with a C.R. registered at Bhopal in the State of M.P. being C.R.No.292 of 2006. Offences alleged therein are punishable under sections 153A, 507 I.P.C. read with sections 66 and 74 of the Information Technology Act, 2000. He was arrested there on 26th July 2006 and upon transfer warrant from Bhopal was brought in at Mumbai.

3. Principal allegation against the applicant is that he had sent five e.mails to a News Channel informing that the serial bomb blasts were carried out in Mumbai city on 11th July 2006 by a terrorist outfit named Lashkar-e-Qahar. Bhopal case is also based upon the same allegation.

4. Prosecution alleges that the applicant way back in the year 2001 had also sent similar messages stating therein that one organisation named Laskher-e-Toyaba is going to carry out blasts at strategic installations including BARC.

C.R. was registered based upon these messages bearing C.R.No.298 of 2001 by Colaba police Station, Mumbai.

5. Applicant applied for bail, which was rejected by the learned Metropolitan Magistrate so also by the Sessions Judge.

6. Learned Sessions Judge noted the fact that the applicant is in judicial custody. He further noted that in the year 2001 when e.mail was received, applicant was about 13 years old. Now in the year 2006 similar incident has occurred and the applicant is sending more or less identical messages. Investigations are going on. In such circumstances, applicant does not deserve to be enlarged on bail.

7. Apart from the fact that the investigations are complete, Mr.Solkar submits that the stipulated period within which the investigations have to be completed in law is

already over. Hence, the applicant deserves to be enlarged on bail. Even otherwise, according to him, beyond e.mails which were forwarded by the applicant allegedly, there are no allegations insofar as serial blasts and other incident. He submits that this Court should, therefore, consider the application sympathetically. More so, when the applicant is 19 years old and a student pursuing his studies. Mr.Pednekar, A.P.P. states that charge sheet would be laid very shortly. He submits that the applicant has despatched/released earlier messages of identical nature. His role has to be probed further and considering the seriousness of the charges, applicant should not be enlarged on bail. Alternatively, he submits that if this Court is inclined to consider the application, strict conditions be imposed such as furnishing local sureties as also periodical attendance.

8. The trial Court is greatly influenced by the fact that serial bomb blast took place in

this City on 11th July 2006. However, that is distinct matter. In the instant case, against the applicant, two C.Rs. are registered only for sending e.mails to a News Channel. Although the applicant has been arrested in connection with serious charges, investigations could not be concluded within the period stipulated by the law. Therefore, even otherwise, he is entitled to be released on bail. That apart, considering the limited role attributed to the applicant so also his age by imposing strict conditions, present application can be granted. Hence, following order:-

i) The applicant arrested in connection with C.R.No.298 of 2001 registered with Colaba Police Station shall be enlarged on bail in the sum of Rs.10,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to

condition that the applicant will remain present before the concerned investigating officer of Colaba Police Station once a fortnight initially for a period of three months from today and subsequently as directed by the trial court, conclusion of the trial.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any

inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)